

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

| | | |
|----------------------------------------------|---|---------------------|
| TAMIKA GRIFFITH-JOHNSON, | : | |
| Administratrix of the Estate of JAMES | : | |
| WESLEY ANDERSON, Deceased, | : | |
| Plaintiff, | : | CIVIL ACTION |
| | : | No. 23-1633 |
| v. | : | |
| | : | |
| PROMEDICA SENIOR CARE | : | |
| OF PHILADELPHIA, PA, LLC | : | |
| d/b/a PROMEDICA TOTAL | : | |
| REHAB+, et al., | : | |
| Defendants. | : | |

ORDER

AND NOW, this **12th** day of September, 2023, upon consideration of Defendants ProMedica Senior Care of Philadelphia PA, LLC d/b/a ProMedica Total Rehab+; HCR II Healthcare, LLC; HCR III Healthcare, LLC; HCR IV Healthcare, LLC; HCR Healthcare, LLC; HCR ManorCare, Inc.; HCR ManorCare Services, LLC; Heartland Employment Services, LLC; Heartland Rehabilitation Services, LLC; ManorCare of Delaware County, LLC; and ProMedica Health Systems, Inc.'s Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. 12(b)(6) (ECF 6), the Response of Plaintiff, Tamika Griffith-Johnson, Administratrix of the Estate of James Wesley Anderson, deceased (ECF 14), and Defendants' Reply (ECF 17), and consistent with the accompanying Memorandum of Law, it is **ORDERED** that Defendants' Motion is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. The motion is **GRANTED** to the extent that it seeks to dismiss the Estate's claims against the Non-Operator Defendants, its claims based on vicarious liability, its punitive damages claims, and its vague allegations of fraud;
2. The motion is **GRANTED** to the extent that it seeks to strike the Complaint's

references to citations issued for alleged deficiencies occurring after Anderson's death;

3. The motion is **DENIED** in all other respects; and
4. If the Estate can plead sufficient facts to state its dismissed claims consistent with the accompanying Memorandum of Law, the Estate may file an Amended Complaint, if any, on or before **Friday, September 29, 2023**. If it intends to stand on the remaining claims in its Complaint, it shall so inform the Court on or before that date.

It is **FURTHER ORDERED** that the Clerk of Court shall amend the Caption as above to reflect the dismissal of the Estate's claims against Defendants Mercy Catholic Medical Center of Southeastern Pennsylvania, Trinity Health of the Mid-Atlantic Region, Trinity Health Corporation, and Mercy Management of Southeastern Pennsylvania on May 31. (ECF 12.)

BY THE COURT:

A handwritten signature in blue ink, appearing to read "Berle M. Schiller, J." The signature is fluid and cursive, with "Berle" and "M." being more distinct and "Schiller" and "J." being more stylized.

Berle M. Schiller, J.